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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,654	02/19/2004	Youth Lee	MR1197-607	2186

4586 7590 06/29/2005

ROSENBERG, KLEIN & LEE  
3458 ELLICOTT CENTER DRIVE-SUITE 101  
ELLICOTT CITY, MD 21043

EXAMINER
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GARCIA, ERNESTO

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 06/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/780,654

Applicant(s)

LEE, YOUTH

Examiner

Ernesto Garcia

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Specification***

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes", "The invention relates to", etc.

The disclosure is objected to because of the following informalities: "aperture" in line 11 of page 2 should be --apertures--. Appropriate correction is required.

### ***Claim Objections***

Claim 1 is objected to because of the following informalities:

Regarding claim 1, "aperture" in line 3 should be --apertures--, --a-- needs to be inserted after "into" in line 6, "then" needs to be deleted, "aperture and a relating aperture" in line 9 should be --of the apertures--; "the" in line 9 should be --a--, and "secure" should be --securement--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the metes and bounds of the claim are unclear. What is the positioning structure comprised of? Are the upper tube and the lower tube being claimed? Are the handle and the rod being claimed? Lines 4-5 state that the joint has the function "to connect with a handle and to provide elastic force for pushing a rod on top of the handle"; however, lines 8-9 further define the invention by indicating that the rod penetrates the apertures of both tubes, which indicates the rod is claimed along with the upper tube and the lower tube. Further, the limitation "one side" 5 does not have a point of reference. In other words, where is the one side?

Regarding claim 2, the limitation "the tube" in line 2 makes unclear whether that is the upper tube or the lower tube.

Regarding claim 3, the claim depends from claim 1 and therefore is indefinite.

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Regarding claim 4, the metes and bounds of this claim are unclear. Since claim 1 has set forth the structure of the positioning apparatus, it is unclear what claim 4 further intends to define.

***Allowable Subject Matter***

Claims 1-4 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Regarding claim 1, assuming arguendo that the upper tube, the lower tube both with several interval positioned apertures, and the rod on top of the handle is claimed, the prior art of record does not disclose a positioning structure, in combination with an upper tube, a lower tube, and a rod on top of a handle, comprising a positioning apparatus having a flat plate;

Wilcox, fails to teach a positioning apparatus comprising a rod on top of a handle and the flat plate;

the British patent, GB-2,020,967, fails to disclose a beach umbrella, or a positioning apparatus comprising a spring and a rod on top of a handle;

Gibson, 6,199,569, 4,459,787, discloses a positioning apparatus, yet, the details are not known, it would have been obvious to modify it with Gibson, 6,199,569, Chen, 6,330,887, or Suh, 6,575,656; however, the positioning apparatus would not result or be

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comprised a flat plate; further, there would not be a reason to combine Clark with Gibson, Chen, or Suh; and

Morgulis, 4,832,304, Plourde, 5,457,918, and Lara, 6,234,509, also do not teach the deficiencies as thought by applicant; and,

regarding claims 2-4, the claims depend from claim 1.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernesto Garcia whose telephone number is 571-272-7083. The examiner can normally be reached from 9:30-5:30. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached at 571-272-7087.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



E.G.

June 23, 2005



**GREGORY J. BINDA**  
**PRIMARY EXAMINER**